

MDR Tracking Number: M5-04-0390-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on October 8, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits and therapeutic procedures from 12-27-02 through 03-07-03 were found to be medically necessary. The mechanical traction, ultrasound, physical medicine treatments, electrical stimulation, hot or cold packs and neuromuscular stimulator from 12-27-02 through 03-07-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the services listed above.

This findings and decision is hereby issued this 26<sup>th</sup> day of January 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12-27-02 through 03-07-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 26<sup>th</sup> day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
PR/pr

January 13, 2004

**Amended January 21, 2004**

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-04-0390-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ suffered an on-the-job injury when he was using a jackhammer on his construction job. He noticed a sudden onset of low back pain from the serious vibration of the jackhammer. He initially was taken to a hospital in \_\_\_ where he was X-rayed and released. He then sought care from \_\_\_ of \_\_\_. He was treated with conservative care to include passive and active modalities along with chiropractic manipulation. MRI of the lumbar spine was negative. EMG demonstrated some nerve root irritation. \_\_\_ was found to be at MMI as of July 25, 2003 by \_\_\_, who was acting as a Designated Doctor on this case.

## DISPUTED SERVICES

The carrier has denied neuromuscular stimulation, myofascial release, ultrasound, therapeutic procedures, physical medicine treatments and office visits as medically unnecessary with a peer review.

## DECISION

The reviewer has determined that office visits and therapeutic procedures are medically necessary.

The reviewer agrees with the prior adverse determination for all other care rendered.

## BASIS FOR THE DECISION

The patient seemed to have had more than an uncomplicated sprain/strain, as evidenced by an EMG with proved positive for a radiculopathy as well as the FCE which indicated that the patient was unable to reach an adequate strength level which was demanded of his job. The treating doctor rendered delivered active treatment in the form of therapeutic exercises which addressed the deficiencies as well as chiropractic manipulation restore the mobility of the affected segments. Clearly, the treatment was documented to have a positive effect on this patient's condition. While the documentation is difficult to follow and largely on travel card styled forms, the doctor did what is required to prove that his treatment was reasonable for the active care and office visits. However, there is no reason for passive treatment that can be discerned from the documentation and there was no letter of explanation as to why such care would be ongoing at this point in time after such a lengthy initial treatment with passive care. As a result, the reviewer finds that the office visits and therapeutic activities are reasonable, but the remainder of the care is undocumented and therefore is not found to be necessary for this patient's care.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,